

SECOND REGULAR SESSION

SENATE BILL NO. 1383

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time March 1, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4440S.06I

AN ACT

To amend chapters 226 and 304, RSMo, by adding thereto two new sections relating to commercial motor vehicles.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapters 226 and 304, RSMo, are amended by adding thereto two new sections, to be known as sections 226.195 and 304.233, to read as follows:

226.195. 1. Motor carriers may voluntarily request a compliance audit to be conducted by the highways and transportation commission of the department of transportation to determine whether the motor carrier is currently in compliance with all relevant statutes, rules, and regulations. If deficiencies are discovered by the commission during the voluntary compliance audit, the carrier shall not be subject to fines or penalties. The following restrictions apply to such voluntary compliance audits:

- (1) Audits are to be conducted with existing audit staff;**
- (2) Motor carriers may request only one compliance audit per five-year period;**
- (3) No motor carrier may have a second voluntary compliance audit unless a regular enforcement audit has been performed; and**
- (4) A request for such a compliance audit shall not be a rationale for the highways and transportation commission to perform an enforcement audit.**

2. The highways and transportation commission shall:

- (1) Keep a list of all motor carriers requesting a voluntary compliance audit and if more requests are made than audit slots available, the voluntary compliance audits shall be conducted on a first-come, first-serve basis;**
- (2) Start a new list of voluntary compliance audit requests each year starting on the first of September and set up a mechanism which manages the voluntary compliance audit requests in the most fiscally efficient and materially**

fair manner;

(3) Ensure that the commission does not exhibit a pattern of enforcement audit bias against any motor carrier who has requested a voluntary compliance audit, but has failed to receive one; and

(4) Implement rules and regulations as necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

(5) One-third of the total number of audits performed shall be based on the total number of audits performed in the prior fiscal year.

3. The commission shall perform at a minimum one-third of all audits conducted by the commission as voluntary compliance audits. The highways and transportation commission may, in its discretion, increase the number of voluntary compliance audits to fifty percent of the total audits performed in the prior fiscal year.

4. All records related to the request for a voluntary compliance audit shall be considered open under chapter 610, RSMo.

5. Any pattern of abuse related to voluntary compliance audits conducted or actions resulting from such audits by the highways and transportation commission is admissible in the administrative hearing commission or courts as evidence of abuse of administrative discretion. Upon such a finding the court may award attorney's fees.

6. If the highways and transportation commission discovers a violation that presents a safety issue for the traveling public while conducting a voluntary compliance audit under this section, the commission may shut down the operation of the motor carrier, but the commission shall not impose a fine for the violation.

304.233. The general assembly hereby occupies and preempts the entire field of legislation touching in any way the enforcement of state commercial motor vehicle laws to the complete exclusion of any order, ordinance, or regulation by any political subdivision of this state. No local law enforcement officer or local agency shall perform commercial motor vehicle enforcement and is hereby restricted from enforcing commercial motor vehicle equipment, size, height, and

weight violations described in sections 304.170 to 304.230. The enforcement of the commercial motor vehicle violations described in sections 304.170 to 304.230 shall be exclusively enforced by the state and its duly authorized agencies. No county, city, town, village, municipality, or other political subdivision of this state shall adopt any order, ordinance, or regulation concerning in any way the enforcement of commercial motor vehicle laws. Any existing or future orders, ordinances, or regulations in this field are hereby and shall be null and void.

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